IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10544 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

PATEL BALUBHAI KHAPABHAI

Versus

REGIONAL PASS PORT OFFICER

Appearance:

MR CB DASTOOR for Petitioner

MR ANANT S DAVE for Respondent No. 1

NOTICE SERVED BY DS for Respondent No. 2

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 17/10/2000

ORAL JUDGEMENT

Rule. Mr.A.S.Dave, Learned Additional Standing

Counsel for the Central Government waives service of rule for respondents.

2. In this petition under Article 226 of the Constitution, the petitioner has prayed for a writ of mandamus directing the respondent to rectify the mistake in birth date of the petitioner as per Birth Certificate issued by the Talati cum Mantri, Masa Gram Panchayat (at annexure "B" to the petition) instead of School Leaving Certificate in the passport.

3. The petitioner was earlier issued passport wherein the petitioner's date of birth was shown 8.1.1952 as per School Leaving Certificate. When the petitioner applied for visa he was intimated by the Consulate General that the birth date should be as per the Birth Register for which the petitioner personally visited the passport authority to rectify his birth date as 7.1.1953 as per the birth certificate issued by Talati cum Mantri, Masa Gram Panchayat(annexure "B" to the petition) instead of school leaving certificate. The said request of the petitioner was turned down and the petitioner was instructed orally to obtain orders of this Court. Hence, the petitioner has filed the present petition.

4. In view of the settled position that if there is any discrepancy between the birth date recorded in the birth certificate issued by the Municipality/Local authority and the birth date recorded in the School Leaving Certificate, the birth date recorded in the birth certificate should normally prevail, the Regional Passport Officer should not have had any hesitation in accepting the petitioner's request for showing the birth date in the passport on the basis of birth certificate issued by the Valsad Nagarpalika (at annexure "C" to the petition).

5. In view of the above discussion, the petition is allowed. The Regional Passport Officer is directed to consider the petitioner's request for change of date of his birth in the passport in accordance with law on the basis of the material which may be placed before the Regional Passport Officer, more particularly the birth certificate issued by the Talati-cum-Mantri, Masa Gram Panchayat, Tal.Gandevi, Dist.Navsari (at Annexure "B" to the petition) and shall pass appropriate orders within a period of one month from the date of receipt of writ of this Court or a certified copy of this judgment, whichever is earlier.

In case the petitioner is required to apply for a fresh passport, the petitioner shall comply with the requisite formalities for the same.

6. The petition is accordingly allowed in the aforesaid terms. Rule is made absolute to the aforesaid extent.

7. Since the respondents are not responsible for the mistake in question, the petitioner shall pay costs of this petition, which are quantified at Rs.1,500/-, to the respondent within two weeks from today. Direct Service is permitted.

17.10.2000 (M.S.SHAH,J)